

MARY JO LANZAFAME
ASSISTANT CITY ATTORNEY

SANNA R. SINGER
DEPUTY CITY ATTORNEY

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

Jan I. Goldsmith
CITY ATTORNEY

1200 THIRD AVENUE, SUITE 1620
SAN DIEGO, CALIFORNIA 92101-4178
TELEPHONE (619) 236-6220
FAX (619) 236-7215

September 26, 2011

**REPORT TO THE COMMITTEE ON RULES, OPEN GOVERNMENT AND
INTERGOVERNMENTAL RELATIONS**

OVERVIEW OF PROPOSED REVISIONS TO COUNCIL POLICY 000-13

INTRODUCTION

At the May 18, 2011 hearing of the Committee on Rules, Open Government and Intergovernmental Relations (Rules Committee), the Independent Budget Analyst (IBA) presented a report entitled, "Unresolved Issues from the 2007 Charter Review Commission," IBA Report No. 11-24. One of the unresolved issues related to the appointment process for boards, commission, committees and other governmental agencies. In reviewing this issue, the IBA noted that Council Policy 000-13 regarding board and commission appointments was last updated in 1984. The IBA recommended that the policy be revised to reflect the now permanent Mayor-Council form of government.

The Rules Committee requested that the IBA and City Attorney return with revisions to Council Policy 000-13 in accordance with the IBA's recommendations. The City Clerk's Office also has made suggestions for updating Council Policy 000-13 to better reflect current practice. The proposed revisions update the provisions relating to oaths, non-discrimination, and term limits. See proposed Council Policy 000-13 and strike-out, attached as Exhibit A. This report provides an overview of the proposed revisions to Council Policy 000-13.

DISCUSSION

Under the Mayor-Council form of government, the Mayor retains the authority in San Diego Charter sections 41 and 43 to appoint members of City boards, commissions, and committees, subject to Council confirmation. San Diego Charter § 265(b)(11). The Mayor also has the power to appoint City representatives to boards, commissions, committees and governmental agencies, unless controlling law vests the power of appointment with the City Council or a City Official other than the Mayor. San Diego Charter § 265(b)(12).

Council Policy 000-13 currently sets forth the appointment process for boards, commissions, and similar entities. Per the IBA's recommendation, we have reviewed and revised Council Policy 000-13 to conform the policy to the current practices under the new Mayor-Council form of government. For example, the revised policy clearly separates the procedures for Mayoral appointments subject to Council confirmation and Council appointments. It also clarifies that in case of City Council appointments, the Council President (instead of the Mayor) notifies the Councilmembers of vacancies and is responsible for docketing the appointments.

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In consultation with the Mayor's Office and City Clerk's Office, we have suggested additional revisions, as discussed below.

I. OATH REQUIREMENTS

Charter section 211 provides that all City board and commission members take an oath prior to entering office. Specifically, City Charter section 211 states that:

Every officer or member of a Committee, Board or of a Commission of the City shall, *before entering upon the duties of office*, take and subscribe to an oath or affirmation as provided by the Constitution or General Law of the State to be filed and kept in the office of the City Clerk. (Emphasis added.)

Article XX, section 3 of the California Constitution sets forth the specific oath of office that is required of all public officials. California Government Code sections 1300 *et seq.* provide additional requirements for oaths, such as administration and filing procedures.

Currently, Council Policy 000-13 makes reference to the oath requirement by stating that appointees must "[a]pppear at City Clerk's office, take the oath of office and sign the oath card." The proposed revisions to Council Policy 000-13 clarify that, per Charter section 211, the appointees must take the oath *prior* to assuming the duties of office.

II. TERM LENGTH

Another proposed revision to Council Policy 000-13 would clarify the maximum permissible term length for board and commission members. Charter section 41 states that commissioners shall be limited to two *full* consecutive terms, with one (1) term intervening before they become eligible for reappointment. Using slightly different language, City Charter section 43 states that members of advisory boards "shall be limited to a maximum of eight (8) consecutive years in office and an interval of four (4) years must pass before such persons can be reappointed." When a member is unable to complete a term, a new member must be appointed to fill a vacancy. Currently, there is some confusion regarding how long a commission or board member may serve when the new member has served a partial term.

When interpreting a provision of our Charter, we first look to the plain meaning of the language used. "Words used in a statute or constitutional provision should be given the meaning they bear in ordinary use." *Lungren v. Deukmejian*, 45 Cal. 3d 727, 735 (1988). When the meaning is clear and unambiguous, "there is no need for construction, nor is it necessary to resort to indicia of the intent of the Legislature (in the case of a statute) or of the voters (in the case of a provision adopted by the voters.)" *Id.*

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In the case of advisory board members, the plain language of Charter section 43 is fairly clear. Advisory board members can assume partial terms so long as the total time of service does not exceed “a maximum of eight (8) consecutive years in office.” San Diego Charter § 43. However, since Charter section 41 does not specify a maximum number of years for commissioners, there is some ambiguity regarding how long they may serve. The ambiguity stems from what is meant by the meaning of a “full” term.

For example, a new commission member may take over for a partial term that only has one month remaining. If we interpret Charter section 41 literally, the member would be eligible to serve two additional “full” terms after the partial term, resulting in a total time served of eight years and one month (assuming a four-year term). But if the partial term was three years, this could result in a total time served of eleven years. For the reasons set forth below, we do not believe this is what the voters intended when they enacted this Charter language. “Literal construction should not prevail if it is contrary to the legislative intent apparent in the statute. The intent prevails over the letter, and the letter will, if possible, be so read as to conform to the spirit of the act.” *Lungren* at 735.

Charter sections 41 and 43 were amended in the November 1969 election, as part of “Proposition J.” A review of legislative history reveals that the voters intended a different rule for commission members than for advisory board members. According to the ballot summary for Proposition J, the amendments were intended to extend the term length from two to four years for certain commissions, and to provide that: “*commissioners* are limited to two full terms with one term intervening before reappointment...; *advisory board members* are limited to eight consecutive years in office with four years intervening before appointment.” (Emphasis added.) Proposition J Ballot Materials, p. 21.

The argument in favor of Proposition J also described two, somewhat conflicting, policy concerns. On the one hand, the argument stated that: “Terms of commission members should be lengthened to 4 years to take advantage of the increased understanding gained through experience that they can apply to solving City problems.” This indicates the intent to permit commissioners to serve longer terms, so that the City can benefit from the wisdom gained from experience. On the other hand, the argument went on to state that: “Limiting the service of citizens on *commissions*, boards, and committees to 8 consecutive years will encourage development of an increased talent pool” This suggests, to the contrary, the intent to ensure that new members are regularly brought in to share new ideas and fresh points of view.

Putting these conflicting policy goals aside, we cannot rely too heavily on ballot arguments to deduce voter intent. *Conde v. City of San Diego*, 134 Cal. App. 4th 346, 350-51 (2005) (holding that ballot argument was not “‘highly authoritative in construing the measure’ because it ‘overstate[s] the [positive] effects of the [proposed] measure’”); citing *Legislature v. Eu*, 54 Cal. 3d 492, 505 (1991). Even though the ballot argument suggests that “commissioners” are limited to eight consecutive years, this runs contrary to the plain language of Charter section 41. Presumably, if the Charter amendments were intended to create the same limitations for commissioners and advisory board members, there would be no reason for the differing language

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in Charter sections 41 and 43. *Lungren* at 735, (holding that, “[a]n interpretation that renders related provisions nugatory must be avoided”).

The proposed revisions to Council Policy 000-13 include a suggestion for reconciling the conflicting policy goals described above, without contravening the plain language of Charter section 41. The proposed language provides that a partial term that is greater than one-half of a full term will be considered a “full” term for the purpose of term limitations:

If for any reason, a member serves a partial term in excess of one-half of a full term, that partial term will be considered a full term for the purpose of any term limitations.

There is precedent for this approach in the Charter. For example, Charter section 12(f) states that: “If for any reason a person serves a partial term as Councilmember from a particular district in excess of two (2) years,¹ that partial term shall be considered a full term for purposes of this term limit provision.” Similarly, Charter section 265(d) provides that: “If for any reason a person serves a partial term as Mayor in excess of two years, that partial term shall be considered a full term for purposes of this term limit provision.”

By defining a partial term of more than half-length as a “full term,” we allow service beyond two complete terms when necessary, but still prevent extremely long service periods. For example, assuming a four-year term, someone serving a partial term could serve more than eight years in total, but not more than ten years. This is consistent with how partial terms are treated in the context of the Mayor and Council, and does not contravene the plain meaning of Charter section 41.

CONCLUSION

Per the IBA’s recommendation and in consultation with the City Clerk’s Office, we have drafted revisions to Council Policy 000-13. These revisions update the Council Policy in

¹ Charter sections 12(f) and 265(d) use the phrase “in excess of two (2) years” instead of “in excess of one-half of a full term,” as in the proposed revisions to Council Policy 000-13. Since the terms of the Mayor and Council are set at four years, the two-year rule makes sense in all cases. Since the terms for Charter section 41 commissioners may vary from four to five years, we suggest using a “one-half term” instead of “in excess of two years.”

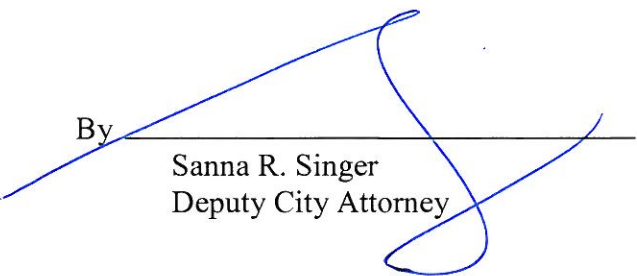
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accordance with the Mayor-Council form of government and reflect current practice. In addition, the revisions clarify the oath requirement and further define the maximum term that may be served by a commission member.

Respectfully submitted,

By



Sanna R. Singer
Deputy City Attorney

SRS:aml:amt
Attachment
RC-2011-34

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT: PROCEDURE FOR MAYOR AND COUNCIL APPOINTMENTS
POLICY NO.: 000-13
EFFECTIVE DATE: _____, 2011

PURPOSE:

It is the intent of the City Council to establish a uniform procedure for the appointment and confirmation of members of commissions, boards, committees, authorities, and districts pursuant to the provisions of this policy. This policy will apply unless it conflicts with the City Charter, ordinance, corporate bylaws, or other controlling legal authority.

POLICY:

Non-Discrimination and Geographical Diversity: Charter section 42 provides that the membership of City commissions, boards, and committees should be diverse and reflect the entire community. The appointing authority should consider persons whose particular strengths, backgrounds, experience, perspective and talents might contribute significantly to efficient and representative policy development and administration in local government.

Appointments to commissions, boards, committees, authorities, and districts, shall be made without discrimination on account of race, color, creed, sex, age, national origin or ancestry, religion, pregnancy, physical or mental disability, veteran status, marital status, medical condition, gender identity, sexual orientation, unless such factor is a legal requirement and necessary to fulfill the purpose of such board, commission, committee, authority, or district. To help achieve geographical diversity, the appointing authority may consider the community and council district where each appointee resides.

Non-Residents of the City: It is the intent of the Council that appointees be residents of the City of San Diego. However, when a person with unique qualifications is available to serve who is a resident of San Diego County, but not the City of San Diego, then the Council may make a conscious exception to this policy. When nominating a person who is not a City resident, the nominator shall provide information to the appointing authority regarding the nominee's unique qualifications to serve.

Term of Service: The Charter and other laws governing commissions, boards, committees, authorities, and districts provide limitations on the number of terms or years a member may serve. Unless otherwise provided, the maximum length of service of appointees shall be limited to two full consecutive terms or eight consecutive years in office, whichever is longer; with one term or four years, whichever is longer, intervening before they become eligible for reappointment. If for any reason, a member serves a partial term in excess of one-half of a full term, that partial term will be considered a full term for the purpose of any term limitations. Appointees whose terms of service have expired shall continue to serve until their successor is

duly appointed and qualified, even if the total time served extends beyond the maximum permissible length of service.

PROCEDURES:

A. Notice of Vacancy

In accordance with California Government Code section 54970 through 54974, the City Clerk shall: (1) maintain a list of all appointive terms that will expire during the next calendar year; and (2) post a notice of any unscheduled vacancy. To the extent practicable, the City Clerk will make this information available on the City's website and regularly inform the Mayor and Councilmembers of unscheduled vacancies and upcoming expired terms.

B. Mayoral Appointment with Council Confirmation

Nomination: Unless otherwise specified by Charter, ordinance, or other controlling authority, Councilmembers may submit to the Mayor one nominee for each vacancy. The nomination should include the nominee's resume and qualifications for appointment. Nominations to fill an expired term must be submitted to the Mayor no later than 30 days before the expired term. Nominations to fill an unscheduled vacancy must be submitted to the Mayor within 30 days of the date the Clerk posts the notice of the unscheduled vacancy. After the relevant time period has passed, and upon receipt of the Mayor's memorandum, the Council President shall place the matter of the appointment to be heard at the next regularly scheduled Council meeting at which the matter can be placed on the docket. In accordance San Diego Charter section 43(c), if the Mayor fails to select an appointee within forty-five (45) days after a board or committee is established, or a vacancy occurs, the Council shall make such appointments.

Confirmation: The Council shall confirm or deny the Mayor's recommended appointee to the vacant position. If the confirmation of the Mayor's recommended appointee is denied, the Mayor may recommend another appointee as soon as possible thereafter, and the Council President may place the matter of appointment on the next regularly scheduled Council meeting docket.

C. City Council Appointment

Nomination: Unless otherwise specified by Charter, ordinance, or other controlling authority, the Council President shall notify each Councilmember by memorandum of the opportunity to submit nominations for appointment. Each Councilmember may submit one nominee for each vacancy, together with information in support of such nominee, to the Council President within the time specified in the memorandum. After the relevant time period has passed, the Council President may place the matter of the appointment to be heard at the next regularly scheduled Council meeting at which the matter can be heard placed on the docket.

Appointment: If there are more nominees than vacancies on the same commission, board, committee, authority or district, an election will be held to fill all vacancies at one time as described below. The following procedure shall be used to fill single or multiple vacancies:

1. The Council President calls on each candidate whose name appears on the docket as a nominee to make a presentation to the Council in support of his or her candidacy for appointment. The maximum presentation length is three minutes per candidate.
2. The Council President calls on each member of the Council to ask brief questions of any of the candidates concerning either the presentation or matters contained in their application filed with the City.
3. If the number of nominees equals the number of vacancies, the nominees may be elected by general consent or acclamation to fill the position.
4. If the number of nominees is greater than the number of vacancies, an election to fill all the vacancies shall be held at one time as follows:
 - a. The City Clerk provides ballots to each Councilmember, who shall vote for the candidate(s) he or she feels to be most qualified and return the ballot(s) to the City Clerk. Each Councilmember has one vote per vacancy.
 - b. The candidate(s) receiving the highest number of votes (minimum of five) shall be appointed to the vacancy(ies).
 - c. If there is one vacancy and no candidate receives a minimum of five votes, the Council may limit the slate of finalists to the two candidates who received the highest number of votes. The finalist receiving the highest number votes (minimum of five) from the Council shall be appointed to the vacancy.
 - d. In a multiple vacancy situation, if no candidate receives a minimum of five votes, balloting may continue until there are sufficient candidates receiving a majority of votes to fill the vacancies. In a tie situation among the candidates who received the highest votes, a run-off shall be held between those candidates.
5. If all nominees are denied, the Council President shall reopen the opportunity to all Councilmembers to submit another nominee, and the Council President shall place these nominees for consideration on a regularly scheduled Council meeting docket.

D. Post-Appointment Procedures

It is the intent of the Council that appointees promptly take the oath of office, be formally advised of any filing requirements pursuant to the conflict of interest code adopted by the agency to which they have been appointed; be provided with required reporting forms and information; and receive continuing written notification of procedures that must be followed during their term of office, as follows:

EXHIBIT A

<u>Responsibility</u>	<u>Action</u>
Mayor or Council President (Staff)	<ol style="list-style-type: none">1. Inform appointee of requirement to take oath of office at City Clerk's office.2. Inform appointee of requirement to file statement of economic interests reporting forms if disclosure is required for the position.
City Clerk (Deputy)	<ol style="list-style-type: none">3. Prepare oath card for appointee.4. Compile sets of forms and information for appointees whose positions require the filing of statements of economic interests.
Appointee	<ol style="list-style-type: none">5. Prior to assuming the duties of office, appear at City Clerk's Office, take the oath of office, and sign the oath card. All members who are reappointed to a board, commission, or other advisory body must retake the oath of office and sign a new oath card.6. If the position is listed in the agency's conflict of interest code as one which requires the disclosure of economic interests, obtain information on the reporting forms from the Clerk. Complete and file the statement of economic interests forms in accordance with the applicable conflict of interest code and disclosure instructions.
City Clerk (Deputy)	<ol style="list-style-type: none">7. Compile and maintain a list of active memberships including status of oaths administered and economic interests disclosure filings.8. Notify members of assuming office filing deadlines for statements of economic interests and provide information on how to obtain the required reporting forms.9. Receive and file statement of economic interest forms filed by members and appointees.10. Follow-up on filings and send written notice to delinquent filers advising of requirement to comply with the conflict of interest code.11. Advise Ethics Commission of appointees' or members' failure to file following the sending of written notification.

HISTORY:

Adopted by Resolution R-205453 04/27/1972

Amended by Resolution R-207141 01/02/1973

Amended by Resolution R-215960 05/12/1976

EXHIBIT A

Amended by Resolution R-217454 01/05/1977
Amended by Resolution R-217592 01/26/1977
Amended by Resolution R-217893 03/15/1977
Amended by Resolution R-221971 10/06/1978
Amended by Resolution R-250473 10/23/1979
Amended by Resolution R-258342 04/25/1983
Amended by Resolution R-261492 09/10/1984
Amended by Resolution R-261821 10/29/1984
Amended by Resolution R-262084 12/03/1984
Amended by Resolution R-xxxxxx 00/00/2011

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT: PROCEDURE FOR MAYOR AND COUNCIL APPOINTMENTS
POLICY NO.: 000-13
EFFECTIVE DATE: ~~December 3, 1984~~ _____, 2011

PURPOSE:

It is the intention of the City Council to establish a uniform procedure for the appointment and confirmation of members of commissions, boards, committees, Aauthorities, and districts and councils pursuant to the provisions of this policy and California Government Code sections 54970 through 54974. This policy will apply unless it conflicts with the City Charter, ordinance, corporate bylaws, or other controlling legal authority.

POLICY:

~~When a vacancy occurs or is expected to occur on a commission or advisory body to which the mayor has the power of appointment, the mayor shall notify each member of the Council by memorandum of such vacancy or expected vacancy and request nominees for the Mayor's consideration in making an appointment to fill the vacancy. Each Council member may, but is not required to, submit the name of one nominee, with attendant supporting information, to the Mayor within thirty days after receiving the notification of the vacancy.~~

Notification shall be deemed effective upon receipt of the mayor's memorandum, as indicated by the Council office time and date stamp. At the close of the thirty day response period, the mayor shall then cause to be placed on the next regularly scheduled Council meeting docket the matter of the appointee the Mayor has selected to fill the vacant position. The appointee shall, if a majority of Council members agree, appear before the Council. The Council shall confirm or deny the mayor's recommended appointee to the vacant position. If the confirmation of the Mayor's recommended appointee is denied, the Mayor shall cause to be placed on the next regularly scheduled Council meeting docket the matter of the Mayor's appointment to fill the vacant position.

~~When a vacancy occurs or is expected to occur on a commission or advisory body to which the City Council has the power of appointment, the City Clerk shall notify each member of the Council by memorandum of such vacancy or expected vacancy and request Council members to submit to the Mayor no later than thirty days after said notification the name of one nominee to fill the vacancy, together with any information in support of such nominee. Notification shall be deemed effective upon receipt of the City clerk's memorandum, as indicated by the Council office time and date stamp. The Council shall comply with the charge contained in Charter Section 42 to "take into consideration sex, race, and geographical area so that the membership of~~

such commissions, boards, committees or panels shall reflect the entire community.” The Mayor shall notify the City Council by memorandum of the nominees to fill the vacancy. No earlier than one week after the issuance of his memorandum, the Mayor shall cause to be placed on the next available Adoption Agenda of a regularly scheduled Council meeting the matter of discussion by the Council of the nominees. The Council shall consider all such nominees and select a nominee to fill the vacancy.

It is the intent of the Mayor and City Council that persons recommended as appointees to any City agency pursuant to this policy shall be residents of the City of San Diego. However, when a person with unique qualifications is available to serve, and who is resident of San Diego County, but not the City of San Diego, then the Mayor and City Council may make a conscious exception.

When nominating a person who is not a City resident, the Mayor or Councilmember shall notify all other Councilmembers of their nomination and provide a statement of his or her unique qualification. The notification shall be by memorandum and delivered within the nomination period.

The charter of The City of San Diego and some, but not all, other laws creating commissions, boards, committees, authorities, districts and councils provide limitations on the number of terms or years a member can serve. It is the intent of the Mayor and City Council that persons recommended as appointees to any City agency pursuant to this policy shall be governed by the maximum length of service provisions of the Charter so that appointees shall be limited to two (2) full consecutive terms or eight (8) consecutive years in office, whichever is longer; with one term or four (4) years, whichever is longer, intervening before they become eligible for reappointment.

It is the intention of this policy to take cognizance of and comply with the provisions of section 54972 through 54974 of the California Government Code.

Non-Discrimination and Geographical Diversity: Charter section 42 provides that the membership of City commissions, boards, and committees should be diverse and reflect the entire community. The appointing authority should consider persons whose particular strengths, backgrounds, experience, perspective and talents might contribute significantly to efficient and representative policy development and administration in local government.

Appointments to commissions, boards, committees, authorities, and districts, shall be made without discrimination on account of race, color, creed, sex, age, national origin or ancestry, religion, pregnancy, physical or mental disability, veteran status, marital status, medical condition, gender identity, sexual orientation, unless such factor is a legal requirement and necessary to fulfill the purpose of such board, commission, committee, authority, or district. To help achieve geographical diversity, the appointing authority may consider the community and council district where each appointee resides.

Non-Residents of the City: It is the intent of the Council that appointees be residents of the City of San Diego. However, when a person with unique qualifications is available to serve who is a resident of San Diego County, but not the City of San Diego, then the Council may make a conscious exception to this policy. When nominating a person who is not a City resident, the nominator shall provide information to the appointing authority regarding the nominee's unique qualifications to serve.

Term of Service: The Charter and other laws governing commissions, boards, committees, authorities, and districts provide limitations on the number of terms or years a member may serve. Unless otherwise provided, the maximum length of service of appointees shall be limited to two full consecutive terms or eight consecutive years in office, whichever is longer; with one term or four years, whichever is longer, intervening before they become eligible for reappointment. If for any reason, a member serves a partial term in excess of one-half of a full term, that partial term will be considered a full term for the purpose of any term limitations. Appointees whose terms of service have expired shall continue to serve until their successor is duly appointed and qualified, even if the total time served extends beyond the maximum permissible length of service.

Selection Procedure

PROCEDURES:

A. Notice of Vacancy

In accordance with California Government Code section 54970 through 54974, the City Clerk shall: (1) maintain a list of all appointive terms that will expire during the next calendar year; and (2) post a notice of any unscheduled vacancy. To the extent practicable, the City Clerk will make this information available on the City's website and regularly inform the Mayor and Councilmembers of unscheduled vacancies and upcoming expired terms.

B. Mayoral Appointment with Council Confirmation

Nomination: Unless otherwise specified by Charter, ordinance, or other controlling authority, Councilmembers may submit to the Mayor one nominee for each vacancy. The nomination should include the nominee's resume and qualifications for appointment. Nominations to fill an expired term must be submitted to the Mayor no later than 30 days before the expired term. Nominations to fill an unscheduled vacancy must be submitted to the Mayor within 30 days of the date the Clerk posts the notice of the unscheduled vacancy. After the relevant time period has passed, and upon receipt of the Mayor's memorandum, the Council President shall place the matter of the appointment to be heard at the next regularly scheduled Council meeting at which the matter can be placed on the docket. In accordance San Diego Charter section 43(c), if the Mayor fails to select an appointee within forty-five (45) days after a board or committee is established, or a vacancy occurs, the Council shall make such appointments.

Confirmation: The Council shall confirm or deny the Mayor's recommended appointee to the vacant position. If the confirmation of the Mayor's recommended appointee is denied, the Mayor may recommend another appointee as soon as possible thereafter, and the Council President may place the matter of appointment on the next regularly scheduled Council meeting docket.

C. City Council Appointment

Nomination: Unless otherwise specified by Charter, ordinance, or other controlling authority, the Council President shall notify each Councilmember by memorandum of the opportunity to submit nominations for appointment. Each Councilmember may submit one nominee for each vacancy, together with information in support of such nominee, to the Council President within the time specified in the memorandum. After the relevant time period has passed, the Council President may place the matter of the appointment to be heard at the next regularly scheduled Council meeting at which the matter can be placed on the docket.

Appointment: If there are more nominees than vacancies on the same commission, board, committee, authority or district, an election will be held to fill all vacancies at one time as described below. The following procedure shall be used to fill single or multiple vacancies:

1. The ~~Mayor~~ Council President calls on each candidate whose name appears on the docket as a nominee to make a presentation to the Council in support of his or her candidacy for appointment. The (maximum presentation length is three (3) minutes presentation each per candidate.
2. The ~~Mayor~~ Council President calls on each member of the Council to ask brief questions of any of the candidates concerning either the presentation or matters contained in their application filed with the City.
3. If the number of nominees equals the number of vacancies, the nominees may be elected by general consent or acclamation to fill the position.
4. If the number of nominees is greater than the number of vacancies, an election to fill all the vacancies shall be held at one time as follows:
 - a. The City Clerk provides ballots to ~~the Council and each Council member votes~~ Councilmember, who shall vote for the candidates(s) he/ or she feels to be most qualified for each vacancy and returns the ballots(s) to the City Clerk. Each Council member-Councilmember has one vote per vacancy.
 - b. The candidate(s) receiving the highest number of votes (minimum of five) shall be appointed to the vacancy(ies).
 - c. If there is one vacancy and no candidate receives a minimum of five (5) votes, the Council may limit the slate ~~to the two highest vote getters as finalists. of finalists to the two candidates who received the highest number of votes.~~ The finalist receiving-a

majority the highest number votes (minimum of five) from the Council shall be appointed to the vacancy.

- d. In a multiple vacancy situation, if no candidates receives a minimum of five votes, balloting ~~would~~ may continue until there ~~we~~ are sufficient candidates receiving a majority of votes to fill the vacancies. In a tie situation among the ~~top vote getters~~ those candidates who received the highest votes, a run-off for the vacancies. ~~If an insufficient number of candidates receive a majority of votes to fill all vacancies, a run -off shall be held between those candidates.~~

5. If all nominees are denied, the Council President shall reopen the opportunity to all Councilmembers to submit another nominee, and the Council President shall place these nominees for consideration on a regularly scheduled Council meeting docket.

RESPONSIBILITY:

D. Post-Appointment Procedures

It is the intent of the City Council that appointees promptly take the oath of office, ~~are~~ be formally advised of any filing requirements pursuant to the conflict of interest code adopted by the agency to which they have been appointed, ~~are;~~ be provided with required reporting forms and information; ~~and receive continuing written notification and follow up will be clearly provided by documented of procedures; namely, that must be followed during their term of office, as follows:~~

<u>Responsibility</u>	<u>Action</u>
Mayor (staff)	1. Inform appointee of requirement to take oath of office at City Clerk's office. 2. Inform appointee of requirement to file statement of economic interests reporting forms if disclosure is required for the position.
City Clerk (Deputy)	3. Prepare oath card for appointee. If position requires filing of statement of economic interest, attach a notice to oath card that appointee shall be provided with forms and instructions and must sign an acknowledgment for receipt of materials. 4. Compile sets of forms and information for appointees whose positions require the filing of statements of economic interests.
Appointee	5. Appear at City Clerk's office, take the oath of office and sign the oath card.

EXHIBIT A

6. ~~If the position requires economic interests disclosure, obtain the necessary reporting forms from the Clerk, together with instructional information regarding the reporting and sign acknowledgment receipt for the forms.~~
7. ~~If required by the agency's conflict of interest code, complete and file the statement of economic interests in accordance with the code instructions.~~
- City Clerk (Deputy) 8. ~~Compile and maintain a list of active memberships including status of oaths administered and economic interests disclosure filings, if required. Provide copies of the list to the Mayor; City Attorney and Board/Commission chairpersons.~~
9. ~~Notify members of annual filing deadlines for statements of economic interests and provide required reporting forms.~~
10. ~~Receive and file statement of economic interest forms filed by members and appointees.~~
11. ~~Follow-up on filings and send written notice to delinquent filers advising of requirement to comply with code. (A copy of each notice to be sent to the City Attorney.)~~
12. ~~Advise City Attorney of appointees' or members' failure to file following the sending of written notification.~~

<u>Responsibility</u>	<u>Action</u>
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<u>Mayor or Council</u>	
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<u>President (Staff)</u>	
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	1. <u>Inform appointee of requirement to take oath of office at City Clerk's office.</u>
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	2. <u>Inform appointee of requirement to file statement of economic interests reporting forms if disclosure is required for the position.</u>
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<u>City Clerk (Deputy)</u>	
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	3. <u>Prepare oath card for appointee.</u>
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	4. <u>Compile sets of forms and information for appointees whose positions require the filing of statements of economic interests.</u>
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<u>Appointee</u>	
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	5. <u>Prior to assuming the duties of office, appear at City Clerk's Office, take the oath of office, and sign the oath card. All members who are reappointed to a board, commission, or other advisory body must retake the oath of office and sign a new oath card.</u>
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6. If the position is listed in the agency's conflict of interest code as one which requires the disclosure of economic interests, obtain information on the reporting forms from the Clerk. Complete and file the statement of economic interests forms in accordance with the applicable conflict of interest code and disclosure instructions.
- City Clerk (Deputy) 7. Compile and maintain a list of active memberships including status of oaths administered and economic interests disclosure filings.
8. Notify members of assuming office filing deadlines for statements of economic interests and provide information on how to obtain the required reporting forms.
9. Receive and file statement of economic interest forms filed by members and appointees.
10. Follow-up on filings and send written notice to delinquent filers advising of requirement to comply with the conflict of interest code.
11. Advise Ethics Commission of appointees' or members' failure to file following the sending of written notification.

HISTORY:

Adopted by Resolution R-205453 04/27/1972
Amended by Resolution R-207141 01/02/1973
Amended by Resolution R-215960 05/12/1976
Amended by Resolution R-217454 01/05/1977
Amended by Resolution R-217592 01/26/1977
Amended by Resolution R-217893 03/15/1977
Amended by Resolution R-221971 10/06/1978
Amended by Resolution R-250473 10/23/1979
Amended by Resolution R-258342 04/25/1983
Amended by Resolution R-261492 09/10/1984
Amended by Resolution R-261821 10/29/1984
Amended by Resolution R-262084 12/03/1984
Amended by Resolution R-xxxxxx 00/00/2011